

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 94-027P]

RIN 0583-AB84

Transporting Undenatured Poultry Feet to Other Establishments for Processing Prior to Export

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend the poultry products inspection regulations to permit the transportation of undenatured poultry feet from one federally inspected poultry establishment to another establishment for further processing before the feet are exported. Establishments would be permitted to ship undenatured poultry feet to another establishment for export provided that the receiving establishment maintains records that identify the incoming undenatured poultry feet, their source, and their location at all times during processing. The receiving establishment would be required to certify in writing that the poultry feet have not been, nor will be, commingled with other products intended for human consumption within the United States. We are initiating this rulemaking in response to a petition submitted to the Agency by DanD Food Marketing, Inc., Springfield, MO.

DATES: Comments must be received on or before June 19, 1995.

ADDRESSES: Submit written comments in triplicate to Diane Moore, Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 3171-S, Washington, DC 20250-3700. Please refer to docket number 94-027P in your comments. Any person desiring an opportunity for oral presentation of views as provided under

the Poultry Products Inspection Act should contact Dr. Paula M. Cohen at (202) 720-7164 so that arrangements can be made. All comments submitted in response to this proposal will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 1:00 p.m., and 2:00 p.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. Paula M. Cohen, Director, Regulations Development, Policy, Evaluation and Planning Staff, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250-3700; (202) 720-7164.

SUPPLEMENTARY INFORMATION:

Background

Section 9 of the Poultry Products Inspection Act (21 U.S.C. 458) prohibits the sale, [or] transportation, * * * from an official establishment, [of] any slaughtered poultry from which the * * * feet * * * have not been removed * * * except as may be authorized by regulations of the Secretary. Section 381.147(b) of the poultry products inspection regulations (9 CFR 381.147(b)) permits the processing of poultry feet for use as human food when handled in a manner approved by the [FSIS] Administrator in specific cases. 9 CFR 381.190(b) permits poultry feet collected and handled in an acceptable manner at an official establishment to be shipped from the official establishment and in commerce directly for export for further processing as human food, if they have been examined, found to be suitable for such purpose, and labeled as prescribed.

In 1994, DanD Food Marketing, Inc., Springfield, MO, a poultry slaughterer and processor, petitioned FSIS to amend the poultry products inspection regulations to permit the transportation of undenatured poultry feet from one or more establishments to another establishment, where the feet would be further processed for export. The petitioner provided FSIS with documents that set forth the procedures and safeguards that would be used by the receiving establishment when handling and processing the undenatured poultry feet. FSIS has reviewed the information submitted by the petitioner and has determined that the proposed procedures would ensure that the undenatured poultry feet are neither diverted to nor commingled

with any product intended for domestic use.

The foreign demand for poultry feet continues to increase. However, as currently written, 9 CFR 381.190(b) does not permit an exporter of poultry feet to ship undenatured product from one slaughter establishment to a central establishment for processing before export. To prevent the possible commingling of the poultry feet with poultry products intended for domestic consumption, exporters must ship the poultry feet directly overseas from the original slaughter establishment. As a result, it is difficult for the exporters to keep up with the foreign demand for the poultry feet due to a lack of space and manpower in some slaughter establishments. As long as the establishment official at the receiving processing establishment remains accountable for the location of the poultry feet at all times before their export, this proposal would allow them to use a central establishment for pre-export processing. Furthermore, when poultry feet are handled in accordance with 9 CFR 381.190(c), sanitary transportation conditions are maintained, and the possibility of the product becoming contaminated or adulterated while en route to another establishment for processing prior to export is minimized. Therefore, we are proposing to amend the regulations to allow the transportation of undenatured poultry feet from one or more establishments to another official establishment for further processing before export.

Section 381.175(a) of the poultry products inspection regulations requires that every person, firm, or corporation engaged in certain activities related to poultry production and distribution maintain records which fully and correctly disclose all transactions involved in the business. Section 381.175(b) details the kinds of records that must be maintained, but does not specify the format for such recordkeeping. "Transactions" have been traditionally interpreted by FSIS to be sales, purchases, transportation, receipt, or handling of poultry products that would demonstrate the sources of the poultry products.

This proposal would require those processing establishments that receive undenatured poultry feet from slaughter establishments for further processing

before export overseas to maintain records that identify the incoming product, i.e., poultry feet, and their source, and identify the location of the product at all times during the processing and preparation for export. In addition, an establishment official would certify that the poultry feet have not been and will not be commingled with any products intended for human consumption within the United States.

These recordkeeping requirements would enable FSIS and the receiving processing establishments to accurately identify and locate the undenatured poultry feet intended for export while still in the central establishment. FSIS could then determine that the product has not been commingled with any products intended for domestic consumption.

Executive Order 12866

This proposed rule has been determined to be not significant and therefore has not been reviewed by the Office of Management and Budget.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. States and local jurisdictions are preempted under the Poultry Products Inspection Act (PPIA) from imposing any marking or packaging requirements on federally inspected poultry products that are in addition to, or different than, those imposed under the PPIA. States and local jurisdictions may, however, exercise concurrent jurisdiction over poultry products that are outside official establishments for the purpose of preventing the distribution of poultry products that are misbranded or adulterated under the PPIA, or, in the case of imported articles, which are not at such an establishment, after their entry into the United States. Under the PPIA, States that maintain poultry inspection programs must impose requirements on State inspected products and establishments that are at least equal to those required under the PPIA. These States may, however, impose more stringent requirements on such State inspected products and establishments.

This proposed rule is not intended to have retroactive effect.

There are no applicable administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this proposed rule. However, the administrative procedures specified in 9 CFR 381.35 must be exhausted prior to any judicial challenge of the application of the provisions of this proposed rule,

if the challenge involves any decision of an FSIS employee relating to inspection services provided under the PPIA.

Effect on Small Entities

The Administrator has made an initial determination that this proposed rule would not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). This proposal would require establishments that receive undenatured poultry feet for processing prior to export to record the source of the incoming product, identify its location at all times during processing and preparation for export, and certify that the product has not been, nor will be, commingled with any product intended for domestic use. While some establishments may have to change their current recordkeeping practices and make changes to their production practices to accommodate the proposed recordkeeping requirements, no significant economic impact would be imposed on the establishments.

Paperwork Requirements

Under this proposed rule, receiving poultry processing establishments would be required to maintain records that indicate the source of the incoming undenatured poultry feet, and track the poultry feet through processing and preparation for export. In addition, an official of the receiving establishment would certify in writing that the feet have not been, nor will be, commingled with any product intended for consumption in the United States. Establishments would develop their own systems for gathering and maintaining this information. These recordkeeping requirements have been submitted to the Office of Management and Budget for approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 381

Exports, Poultry and poultry products, Reporting and recordkeeping requirements, Transportation.

For the reasons set forth in the preamble, FSIS is proposing to amend 9 CFR part 381 as follows:

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

1. The authority citation for part 381 would continue to read as follows:

Authority: 7 U.S.C. 138f; 7 U.S.C. 450; 21 U.S.C. 451–470; 7 CFR 2.17, 2.55.

2. Section 381.190 would be amended by revising the phrase “in subpart C or T” in the first sentence of paragraph (b)

to read “in this subsection and subpart C or T” and designating that sentence as paragraph (b)(1); revising the second sentence and designating it and the final two sentences of paragraph (b) as paragraph (b)(2), and adding a new paragraph (b)(3) to read as follows:

§ 381.190 Transactions in slaughtered poultry and other poultry products restricted; vehicle sanitation requirements.

* * * * *

(b)(1) * * *

(2) Poultry heads and feet that are collected and handled at an official establishment in an acceptable manner may be shipped from the official establishment directly for export as human food, if they have been examined and found to be suitable for such purpose, by an inspector and are labeled as prescribed in this paragraph.

* * *

(3) Poultry heads and feet that are collected and handled at an official establishment in an acceptable manner may be shipped from the official establishment and in commerce directly to another official establishment for processing before export, provided the receiving establishment maintains records that:

(i) Identify the source of the incoming undenatured poultry feet;

(ii) Identify the location of the product at all times during processing and preparation for export; and

(iii) Contain a written certification from an official of the receiving establishment that the undenatured poultry feet intended for export have not been, and will not be, commingled with any product intended for consumption in the United States. The receiving establishment may only ship the undenatured poultry feet intended for export in accordance with the inspection and labeling requirements of paragraph (b)(2) of this section.

* * * * *

Dated: April 12, 1995.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

[FR Doc. 95–9665 Filed 4–19–95; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Public Meeting on Results of Pilot Site Visits and Revision to Maintenance Inspection Guidance

AGENCY: Nuclear Regulatory Commission.

ACTION: Announcement of meeting.